

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DIANA K. ARAGON; ANGEL BRATCHER,
 individually and as Natural Parent and Guardian
 of D.B., a minor,

Plaintiffs,

vs.

PROPERTY AND CASUALTY INSURANCE
 COMPANY OF HARTFORD,

Defendant.

Case No. 2:13-cv-01728-GMN-GWF

**FINDINGS and
 RECOMMENDATIONS**

**Re: Petition for Compromise of
 Disputed Claim of Minor (#31)**

This matter is before the Court on the Petition for Compromise of Disputed Claim of Minor (#31), filed on December 17, 2014. The petition seeks an order approving the compromise of the bodily injury claim of minor Plaintiff Dylan Bratcher. This matter has been referred to the undersigned magistrate judge by the district judge.

BACKGROUND

The complaint in this action alleges that minor Plaintiff Dylan Bratcher was a passenger in an automobile that was involved in an accident caused by the negligence of an uninsured motorist. The automobile in which Dylan Bratcher was riding was insured by Defendant Property and Casualty Insurance Company of Hartford ("Hartford") whose policy of insurance provided uninsured/underinsured motorist coverage. A claim for uninsured motorist coverage has been alleged on behalf of the Plaintiffs, including minor Plaintiff Dylan Bratcher by and through his natural parent and guardian, Plaintiff Angel Bratcher. Plaintiffs filed this action in the District Court, Clark County, Nevada and it was removed to this Court by Defendant Hartford based on diversity of citizenship between the parties.

1 Plaintiff-Petitioner Angel Bratcher has filed a petition for compromise of disputed claim of
2 a minor on behalf of Dylan Bratcher. The Petitioner alleges (1) that she is the natural mother of
3 Dylan Bratcher, a minor of six (6) years, born June 11, 2008; (2) that Dylan resides with the
4 Petitioner at the listed residential address, and that Petitioner maintains the physical care, custody
5 and control of Dylan; (3) that Dylan was a passenger in a car that was rear-ended by another vehicle
6 in Las Vegas, Nevada on June 27, 2012; (4) that Dylan sustained personal injuries as a result of the
7 accident including soft tissue neck and back injuries and became withdrawn from social situations;
8 (5) that as a result of the accident, Petitioner made a demand on Defendant Hartford for the injuries
9 and damages sustained by Dylan and that Defendant Hartford has offered to pay \$9,504.00 in
10 consideration of a full and final release of all claims on behalf of Dylan; (6) that copies of all
11 medical records, reports and bills which describe the injury, prognosis, initial and final treatment
12 and progress of recovery of Dylan, if any, are attached to the Petition; (7) an itemization of Dylan's
13 outstanding medical bills in the amount of \$938.55; (8) that the \$9,504.00 settlement is subject to a
14 contingent attorney's fee, payable to Plaintiffs' counsel's law firm in the amount of \$3,450.00, and
15 costs in the amount of \$393.76, for total costs and fees of \$3,843.76; (8) that the \$9,504.00
16 settlement is subject to paying the outstanding medical bills in the amount of \$938.55; (9) that the
17 balance of the settlement proceeds after deducting attorney's fees, costs and unpaid medical bills is
18 \$4,721.69 which shall be paid to Petitioner for the establishment of a blocked trust account; (10)
19 that Petitioner believes acceptance of the settlement is in the best interests of Dylan; (11) that
20 Petitioner has been advised and understands that acceptance of the compromise will bar Dylan from
21 seeking further relief from Defendant Hartford for the accident; (12) that Petitioner understands
22 that the settlement funds will be placed in a blocked trust account with City National Bank, a
23 federally insured financial institution in the State of Nevada, 2320 E. Tropicana Avenue, Las
24 Vegas, Nevada 89119, until Dylan reaches 18 years of age, at which time the funds will be
25 removed with a court order; (13) that Petitioner may be required to file periodic verified reports as
26 the Court deems appropriate; and (14) that Petitioner will provide the Court with proof of the
27 establishment of the blocked trust account within sixty (60) days of the Court's order approving the
28 compromise. *Petition* (#31), ¶¶ 1-14.

(magistrate judge approved minors' compromise based on referral from district judge and consent of the parties); *Moore v. Count of Kern*, 2009 WL 3584355, *1 (E.D.Cal. 2009) (magistrate judge entered findings and recommendations regarding approval of petition for compromise of minor's claim); and *Romar v. Fresno Community Hospital and Medical Center*, 2009 WL 1939023 (E.D.Cal. 2009) (order adopting in part findings and recommendations of magistrate judge following *de novo* review of petition to approve compromise). The undersigned therefore concludes that it is appropriate to issue findings and recommendations to the District Judge pursuant to 28 U.S.C. § 636(b)(1)(B).

The Court finds that the Petition in this case, together with the exhibits attached thereto, provides all of the information and documentation required under NRS 41.200. The Court further finds that the proposed compromise is reasonable and appears to be in the best interest of the minor Plaintiff Dylan Bratcher. The Court further finds that because the net amount to be paid for the benefit of the minor Plaintiff is substantially less than \$10,000.00 and the proceeds will be deposited in a blocked trust account in a federally insured financial institution in the State of Nevada, it is not necessary to require the Petitioner to file periodic verified reports detailing the activities of the investment. *See* NRS 41.200.5. Accordingly,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Petition for Compromise of Disputed Claim of Minor (#31) be **approved** by the Court as follows:

1. That the proposed settlement of the claim of the minor against Property and Casualty Insurance Company of Hartford be approved in the sum of \$9,504.00.

2. That the medical bill for North Vista Hospital in the amount of \$677.55 be paid out of the settlement.

3. That the medical bill for Advanced Care Emergency in the amount of \$261.00 be paid out of the settlement.

4. That the \$9,504.00 settlement is subject to attorney fees and costs in the amount of \$3,843.76 which may be paid from the settlement proceeds.

...

1 5. That the remainder of the settlement in the sum of \$4,721.69 be paid to Petitioner
2 for the establishment of a blocked trust account at City National Bank, a federally insured financial
3 institution in the State of Nevada, located at 2320 East Tropicana Avenue, Las Vegas, Nevada
4 89119. Authorization to establish the blocked account for the benefit of the minor should be given
5 to the Petitioner or a representative of the Richard Harris Law Firm.

6 6. That the funds deposited in the blocked trust account shall not be liquidated or
7 diminished prior to March 11, 2026, upon the minor reaching the age of eighteen (18) years, with
8 Court approval, with a final accounting as to the funds and upon showing that the withdrawal is in
9 the best interest of the minor child.

10 7. That the Petitioner shall, within sixty (60) days, file proof of the establishment of the
11 blocked account.

12 **NOTICE**

13 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
14 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
15 held that the courts of appeal may determine that an appeal has been waived due to the failure to
16 file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit
17 has also held that (1) failure to file objections within the specified time and (2) failure to properly
18 address and brief the objectionable issues waives the right to appeal the District Court's order
19 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,
20 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

21 DATED this 29th day of December, 2014.

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24 GEORGE FOLEY, JR.
25 United States Magistrate Judge
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